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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,644	05/27/2005	Mark A. Keller	US020487US	4694

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

PHAM, TUAN

ART UNIT PAPER NUMBER

2618

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/536,644

Applicant(s)

KELLER, MARK A.

Examiner

TUAN A. PHAM

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/27/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 05/27/2005 has been considered by Examiner and made of record in the application file.

Specification

3. The disclosure is objected to because of the following informalities: Please add the appropriate titles to the specification (e.g., Background of the Invention, Summary of the Invention, Brief Description of the Drawings, and Detailed Description, etc.).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-8, 10-14, 21-28, and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (Pub. No.: US 2004/0042629, hereinafter,**

“Mellone”) in view of Burdick et al. (Pub. No.: US 6,424,820, hereinafter, “Burdick”).

Regarding claims 1 and 21, Mellone teaches a system for signal communication and method comprising (see figure 6):

a first earpiece (see earpiece 602) comprising a first Bluetooth T1 adapted to receive a first audio signal transmitted wirelessly from a Bluetooth T (see figure 4, earpiece 402, communication device 400) over a first channel (see figure 6, channel A 606, [0018-0031]), the first audio signal being transmitted by the Bluetooth T and received by the Bluetooth T1 in accordance with prevailing Bluetooth standards, the first earpiece adapted to fit within or behind a first ear of a person in a manner that is sufficient for the person to hear the first audio signal (see figure 4, earpiece 402, communication device 400, figure 6, channel A-606, [0018-0031]); and

a second earpiece (see earpiece 604) comprising a second Bluetooth T2 adapted to receive a second audio signal transmitted wirelessly from the Bluetooth T (see figure 4, earpiece 402, communication device 400) over a second channel (see figure 6, channel B-608, [0018-0031]), the second audio signal being transmitted by the Bluetooth T and received by the Bluetooth T2 in accordance with prevailing Bluetooth standards, the second earpiece adapted to fit within or behind a second ear of the person in a manner that is sufficient for the person to hear the second audio signal, the combination of the first audio signal and the second audio signal being a stereo signal, the first earpiece and the second earpiece not being mechanically connected to each other by a headset or by any mechanical device that is adapted to fit on the head of the

person (see figure 4, earpiece 402, communication device 400, figure 6, channel A-606, [0018-0031]).

It should be noticed that Mellone fails to teach first earpiece transceiver, second earpiece transceiver, and communication device transceiver. However, Burdick teaches such features (see figures 3-6, 14, col.12, ln.19-30, col.22, ln.1-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burdick in view of Mellone in order to provide a freedom of movement of cordless headset as suggested by Burdick at col.1, ln.14-20.

Regarding claims 2 and 22, Mellone further teaches the first earpiece and the second earpiece are not mechanically connected to each other by any mechanical device (see figure 6).

Regarding claims 3 and 23, Mellone further teaches the first earpiece and the second earpiece are each adapted to fit within the concha bowl of the first ear and the second ear, respectively (see figure 4).

Regarding claims 4 and 24, Mellone further teaches the first earpiece and the second earpiece are each adapted to fit in the canal, but not wholly within the concha bowl, of the first ear and the second ear, respectively, such that the first and second earpiece are primarily visible to an ordinary observer of the first ear and the second ear (see figure 4).

Regarding claims 5 and 25, Mellone further teaches the first earpiece and the second earpiece are each adapted to essentially fit in the canal of the first ear and the

second ear, respectively, such that the first and second earpieces are primarily not visible to an ordinary observer of the first ear and the second ear (see figure 4, [0014]).

Regarding claims 6 and 26, Mellone further teaches the first earpiece and the second earpiece are each adapted to fit behind the first ear and second ear, respectively (see figure 4).

Regarding claims 7 and 27, Mellone further teaches the first and second earpieces are not adapted to facilitate transmission of voice vibrations of the person to the transceiver T (see figure 6).

Regarding claims 8 and 28, Mellone further teaches the first audio signal and the second audio signal are a first stereo component and a second stereo component respectively, of a musical signal (see [0027-0030]).

Regarding claims 10 and 30, Burdick further teaches a range of the first audio signal as transmitted by the transceiver T does not exceed about 10 meters, and wherein a range of the second audio signal as transmitted by the transceiver T does not exceed about 10 meters (see col.7, ln.15-33).

Regarding claims 11 and 31, Burdick further teaches the first audio signal and the second audio signal are generated by a source device electrically coupled to the transceiver T (see figure 3, col.9, ln.1-15).

Regarding claims 12 and 32, Mellone further teaches CD player (see [0022]).

Regarding claims 13 and 33, Burdick further teaches the transceiver T is comprised by a semiconductor chip internally disposed within the source device (see figure 9, col.16, ln.56-65).

Regarding claims 14 and 34, Burdick further teaches the transceiver T is disposed external to the source device and is electrically connected to the source device through a line output channel of the source device (see figure 5).

6. Claims 9, 19, 29, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (Pub. No.: US 2004/0042629, hereinafter, "Mellone") in view of Burdick et al. (Pub. No.: US 6,424,820, hereinafter, "Burdick") as applied to claims 1 and 21 above, and further in view of Scheessele (Pub. No.: US 2003/0093547).

Regarding claims 9, 19, 29, and 39, Mellone and Burdick, in combination, fails to teach transmit power not exceeding about 1 milliwatt. However, Scheessele teaches such features (see [0020]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Scheessele in view of Mellone and Burdick in order to provide a low power for transmission as suggested by Scheessele at [0020].

7. Claims 15-18, 20, 35-38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (Pub. No.: US 2004/0042629, hereinafter, "Mellone") in view of Burdick et al. (Pub. No.: US 6,424,820, hereinafter, "Burdick") as applied to claims 1 and 21 above, and further in view of Boesen (Patent No.: US 6,738,485).

Regarding claims 15 and 35, Mellone and Burdick, in combination, disclosed invention, but fails to disclose the first transmission to the second transmission is wirelessly and the second transmission to the third transmission is also wirelessly. However, Boesen teaches such features (see figure 11, col.12, ln.58-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Boesen in view of Mellone and Burdick in order to provide a freedom of movement of cordless headset as suggested by Burdick at col.1, ln.14-20.

Regarding claims 16 and 36, Mellone further teaches CD player (see [0022]).

Regarding claims 17 and 37, Burdick further teaches the transceiver T is comprised by a semiconductor chip internally disposed within the source device (see figure 9, col.16, ln.56-65).

Regarding claims 18 and 38, Burdick further teaches the transceiver T is disposed external to the source device and is electrically connected to the source device through a line output channel of the source device (see figure 5).

Regarding claims 20 and 40, Burdick further teaches a range of the first audio signal as transmitted by the transceiver T does not exceed about 10 meters, and

wherein a range of the second audio signal as transmitted by the transceiver T does not exceed about 10 meters (see col.7, ln.15-33).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Lehtonen (U.S. Pub. No. 2001/0049262), Lin (U.S. Pub. No. 2003/0119565), Lai (U.S. Pub. No. 2005/0159182), and Arnoux (U.S. Pub. No. 2003/0200434) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Pham whose telephone number is (571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:30 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have question on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2618
September 16, 2006
Examiner

Tuan Pham

Supervisory Patent Examiner
Technology Center 2600

Matthew Anderson